



Entered on Docket
November 06, 2007

A handwritten signature in dark ink, appearing to read "Linda B. Riegler".

Hon. Linda B. Riegler
United States Bankruptcy Judge

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,

USA SECURITIES, LLC,
Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

Date of Hearing: October 15, 2007
Time of Hearing: 9:30 a.m.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

ORDER SUSTAINING THE USACM LIQUIDATING TRUST'S TWENTY-FOURTH OMNIBUS OBJECTION [DE 3182] AS IT RELATES TO PROOF OF CLAIM NO(S). 10725-00754 and 10725-01470 FILED BY MICHAEL PETERSEN AS IMPROPERLY ASSERTING SECURED STATUS

Michael Petersen filed Proof of Claim No(s). 10725-00754 and 10725-01470, which asserted secured claims against USA Commercial Mortgage Company ("USACM").

The USACM Liquidating Trust (the "USACM Trust") filed its Twenty-Fourth Omnibus Objection [DE 3182] (the "Objection"), which challenged the secured status of the claims asserted by Michael Petersen and sought to have the Court reclassify Michael Petersen's claims as a general unsecured claims. The USACM Trust provided Michael Petersen with proper notice of the Objection.

The O'Reilly Law Group, LLC filed an opposition to the Objection on Michael Petersen's behalf [DE 3501].

The USACM Trust filed its Motion for Summary Judgment Regarding (1) Responses to the USACM Trust's First Through Thirty-Third Omnibus Objections to Claims Asserting a Secured Status; (2) Responses to USACM Trust's First through Third Omnibus Objections to Claims Asserting a Priority Status; and (3) Newly Alleged Secured and Priority Claims (the "Motion") [DE 4291]. The Motion sought summary judgment on the Objection and asked that the Court sustain the Objection.

The USACM Trust provided proper notice of the Objection.

The O'Reilly Law Group, LLC filed an opposition to the Motion on Michael Petersen's behalf [DE 4571 and 4612].

At a hearing on October 15, 2007, the Objection and the Motion came before the Court. Counsel for the Michael Petersen and the USACM Trust argued to the Court.

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1 Based upon the foregoing and good cause appearing,

2 **IT IS HEREBY ORDERED:**

3 1. Granting the Motion [DE 4291] as it relates to Proof of Claim No(s). 10725-
4 00754 and 10725-01470 filed by Michael Petersen;

5 2. Sustaining the Twenty-Fourth Omnibus Objection [DE 3182] as it relates to
6 Proof of Claim No(s). 10725-00754 and 10725-01470 filed by Michael Petersen; and

7 3. Reclassifying Proof of Claim No(s). 10725-00754 and 10725-01470 filed by
8 Michael Petersen as a general unsecured claim(s) subject to further objection by the
9 USACM Liquidating Trust.

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11 PREPARED AND SUBMITTED:

12 **LEWIS AND ROCA LLP**

13 By: /s/ RC (#0006593)
14 Susan M. Freeman (pro hac vice)
15 Rob Charles
16 John Hinderaker (pro hac vice)
17 *Attorneys for USACM Liquidating Trust*
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CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 9021

In accordance with Local Rule 9021, the undersigned certifies:

- ☐ The Court waived the requirements of LR 9021.
- ☒ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below:
- ☒ approved the form of this order;
- ☐ waived the right to review the order;
- ☐ failed to file and serve papers in accordance with LR 9021(c); and/or
- ☐ failed to sign and return this proposed order within five (5) business days in accordance with LR 9021(b).
- ☐ I have delivered a copy of this proposed order to all attorneys and unrepresented parties who appeared at the hearing regarding this matter and/or who filed a written objection and all have either approved the form of this order, waived the right to review the order, failed to file and serve papers in accordance with LR 9021(c) and the following have disapproved the form of the order.
- ☐ No opposition was filed and no other party or counsel appeared at the hearing.

LEWIS AND ROCA LLP

By: /s/ RC (#0006593)
Susan M. Freeman
Rob Charles
Attorneys for USACM Liquidating Trust

APPROVED/DISAPPROVED

T-2-C-2
John F. O'Reilly
Attorney for Michael Petersen